

April 12, 2002

WRITTEN *EX PARTE* SUBMISSION

William F. Caton
Acting Secretary
Federal Communications Commission
445-12th Street, SW, Room TW A325
Washington, D.C. 20554

Re: *Jurisdictional Separations Reform and Referral to the
Federal-State Joint Board*, CC Docket No. 80-286,
Options for Comprehensive Separations Reform

Dear Mr. Caton:

On February 13, 2002, the Federal-State Joint Board on Separations (Joint Board) held an *En Banc* hearing at the Federal Communications Commission in Washington, D.C. concerning the Glide Path paper filed by the State members of the Joint Board on December 18, 2001. The hearing was held pursuant to *Public Notice*, DA 02-279, released on February 5, 2002. The undersigned was among the presenters at the hearing. Prior to the conclusion of the hearing, Commissioner Joan Smith asked the presenters to submit written responses to two questions. Attached please find my responses, submitted on behalf of the United States Telecom Association. Copies of the attached responses are being provided to the Joint Board members and the Joint Board staff.

In accordance with FCC Rule 1.1206(b)(1), this written submission is being filed electronically with your office, and I request that you include it in the record for this proceeding. Should you have questions, please contact me at (202) 326-7300.

Sincerely,

/s/Lawrence E. Sarjeant
Lawrence E. Sarjeant
Vice President – Law
and General Counsel

attachment

cc: Separations Joint Board members
Separations Joint Board staff

**FEDERAL-STATE JOINT BOARD ON
JURISDICTIONAL SEPARATIONS**

En Banc Hearing
February 13, 2002

Response of Lawrence E. Sarjeant
Vice President – Law and General Counsel
United States Telecom Association
To the Supplemental Questions of Commissioner Joan Smith
April 12, 2002

1. Are companies continuing to gather data or performing calculations necessary to update all of the “frozen” factors – both categorization and allocation factors? If not, how would the long-term impact of the freeze or a decision to extend it be quantified by the Joint Board or the Commission.

Response: USTA is unable to say whether any, all, or some percentage of ILECs continue to gather data or perform calculations for the purpose of updating frozen factors at a later date. It would seem that expecting ILECs to gather such data or perform such calculations during the freeze would defeat the Joint Board’s stated purpose for recommending the freeze – to provide stability and simplification for the separations process. There would be no simplification for ILECs if they were to continue to collect the same data collected before implementation of the freeze and perform the same calculations performed before the implementation of the freeze. The FCC characterized the separations process as an outdated regulatory mechanism that is out of step with today’s rapidly-evolving telecommunications marketplace.¹ USTA agrees. The current separations process is outdated and irrelevant to today’s service environment (for the great preponderance of access lines covered by it), and its acknowledged deficiencies support retaining the current freeze until the process can be eliminated. Cable’s dominant position in the broadband market and wireless’s substantial, and growing, penetration in the residential and business voice markets (both local and long distance) compel the conclusion that greater price deregulation of ILEC services is warranted. Price deregulation of ILEC services renders jurisdictional separations unnecessary. To the extent that there is a limited need to track jurisdictional costs and revenues for some companies that remain rate regulated, we should employ a process that is tailored to those companies (small and/or rural companies) that have a need for separated costs and revenues. Such a process needs to be effective in achieving its intended purpose, but minimally burdensome. As for those ILECs facing competition (serving most ILEC

¹ Jurisdictional Separations and Referral to the Federal-State Joint Board, *Report and Order*, CC Docket No. 80-286 (rel. May 22, 2001) (*Separations Freeze Order*), at ¶1.

access lines), we should deregulate the prices charged for their services and eliminate the separations process.

2. If a company's study area has a mix of exchanges with effective competition and without effective competition, how would the company subdivide the study area and remove costs for the competitive exchanges?

Response: Although there is skepticism that Part 64 is adequate to address this situation, it is not clear to USTA that is the case. It merits further study whether the current Part 64 rules, or modified Part 64 rules, could accommodate the limited instances when such a mix of exchanges would exist in a company's study area. Nonetheless, USTA believes that something far short of the existing jurisdictional separations process could be arrived at to fairly address the situation. It continues, in USTA's view, to be premature to consider the post-freeze next steps for the elimination or modification of the separations process. When that time comes, a determination should be made whether the described scenario is one that exists to any significant degree and warrants attention.